

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JULY 21, 2003
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:14 p.m. The meeting was recessed by Mayor Murphy at 2:47 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 2:54 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 3:25 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss anticipated litigation, initiation of litigation, and real property negotiation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Maland (pr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Deputy City Clerk Liz Maland.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Deputy City Attorney Leslie Devaney.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

June 23, 2003

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, July 21, 2003**

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June 24, 2003
June 30, 2003
July 1, 2003
July 7, 2003 - adjourned
July 8, 2003 - adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:16 p.m.; 2:55 p.m. - 2:56 p.m.)

MOTION BY PETERS TO APPROVE. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-100: Transfer Funds for Balboa Park Organ Pavilion - Electrical System Update.

(Balboa Park Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1392) ADOPTED AS RESOLUTION R-298213

Authorizing the City Auditor and Comptroller to transfer funds in an amount not to exceed \$35,000 from CIP-20-013.0, Park and Recreation Grant Match Fund, Fund No. 630221 to CIP-21-834.0, Balboa Park/Mission Bay Park Requirements;

Authorizing the City Auditor and Comptroller to appropriate and expend \$35,000 from Park and Recreation Match Fund, Fund No. 630221, for CIP-21-834.0, Balboa Park/Mission Bay Park Requirements;

Authorizing the City Auditor and Comptroller, upon advice from administering departments, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The Balboa Park Spreckels Organ Pavilion has provided entertainment for Balboa Park visitors since it was built in 1915 and continues to do so. Deterioration of the existing electrical system has limited use of this area for special events. The decorative lighting which is part of the ornamentation and is a signature of the building facade requires repairs. This project will provide design plans and construction to restore the ornamentation as required to maintain the building's decorative lighting. \$35,000 is required to complete the \$125,000 matching funds required for a \$1,000,000 State Grant received.

FISCAL IMPACT:

The estimated project cost is \$1,125,000 of which \$1,090,000 has been previously approved. The remaining funds to be transferred (\$35,000) are available in the Park and Recreation Grant Match Fund, Fund No. 630221.

Loveland/Belock/AO

Aud. Cert. 2301166.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: YMCA Turning Point.

(Greater North Park Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-57) ADOPTED AS RESOLUTION R-298214

Authorizing the City Manager to execute an agreement with YMCA of San Diego County for the receipt of \$310,000 in Community Development Block Grant (CDBG) funds to be used for the acquisition of a facility to provide living space for homeless and former foster-care youth enrolled in the YMCA Turning Point Transitional Living Program;

Authorizing the City Manager to expend an amount not to exceed \$310,000 from CDBG fund numbers 18535 (\$40,000), 18536 (\$75,000), 18537 (\$105,000), and 18538 (\$90,000), solely and exclusively for the acquisition of property rights, subject to the terms of the agreement referenced above.

CITY MANAGER SUPPORTING INFORMATION:

The City Council has approved allotments as follows: Resolutions R-291539, 03/03/99 \$40,000, R-293044, 05/01/2000 \$75,000, R-294849, 05/15/2001, \$105,000 and R-296421, 04/30/2002 \$90,000, which total \$310,000 in Community Development Block Grant Funds to the YMCA to be used to assist in the purchase of an apartment building, located at 4262 Swift Avenue, for housing of homeless and former foster-care youth enrolled in their YMCA Turning Point Transitional Living Program in the Greater North Park Community. The YMCA and Community Services are requesting City Council's approval of the release of these CDBG Funds for the acquisition of this apartment building that will house 24 residents. The present facility is located in an apartment complex at 4424 44th Street.

The funds will be released to escrow on the approval of an appraisal of the property by the Real Estate Assets Department. The cost of the appraisal and all escrow charges and fees shall be paid by the YMCA.

FISCAL IMPACT:

Funds in the amount \$310,000 are available in CDBG Fund Nos. 18535, 18536, 18537 and 18538.

Herring/Griffith/RAG

Aud. Cert. 2301293.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: Reassessment District No. 2003-1.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-98) ADOPTED AS RESOLUTION R-298215

Approving the forms of a bond purchase agreement, a preliminary official statement, a continuing disclosure certificate and an escrow agreement pertaining to the issuance, sale and delivery of the City of San Diego Reassessment District No. 2003-1 Limited Obligation Refunding Bonds.

CITY MANAGER SUPPORTING INFORMATION:

On April 22, 2003, the City Council adopted two resolutions associated with this action:

Resolution Number R-297877 declared the City Council's intention to establish Reassessment District No. 2003-1, consolidate and reassess the properties within the City's 1915 Act Special Assessment District Numbers 4011 (De La Fuente Business Park-Ph 1), 4021 (De La Fuente Business Park-Ph 2), and 4036 (International Business Center) (the "Original Districts"), into the proposed new Reassessment District No. 2003-1, and issue refunding bonds supported by the reassessments (the "Limited Obligation Refunding Bonds").

Resolution Number R-297878 preliminarily approved the Engineer's Report, set June 10, 2003 as the date for a public hearing on the proposed reassessments and refunding, and directed the City Clerk to provide for the mailing of a notice of the public hearing to the record owners of property proposed to be reassessed, together with reassessment ballot materials.

Pursuant to the June 10, 2003 public hearing and an affirmative reassessment ballot process, the City Council adopted Resolution Nos. R-298078 and R-298079, which established Reassessment District No. 2003-1, approved the Engineer's Report, confirmed the preliminary reassessments

within Reassessment District No. 2003-1, authorized the issuance of Limited Obligation Refunding Bonds and approved the form of bond indenture for Reassessment District No. 2003-1.

Today's action would approve the form, execution, and delivery of a Reassessment District No. 2003-1 Preliminary Official Statement (and would provide for the preparation of a Final Official Statement) ("POS"), Bond Purchase Agreement ("BPA"), and City Continuing Disclosure Certificate. The POS is a document that describes the refunding issue to the marketplace, and the BPA is an agreement between the City and the underwriter for the initial purchase of the bonds. The City Continuing Disclosure Certificate requires the City to make secondary market disclosure on an annual basis to comply with federal securities regulations. Today's action would also authorize the City Manager or his designee to take certain actions necessary to execute and deliver documents and take such other actions to accomplish the issuance, sale and delivery of the refunding bonds.

If the above resolution is adopted, it is anticipated that the Limited Obligation Refunding Bonds would be issued this summer, with the goal of issuing the bonds at interest rates that would result in lower debt service requirements, thereby reducing annual special assessments for property owners within Reassessment District No. 2003-1. However, recent input from the investment community indicates that the proposed refunding may not reach the savings levels that might otherwise be achieved due to: a higher than normal assessment delinquency and foreclosure history with respect to two of the Original Districts; current and pending litigation involving certain properties within two of the Original Districts; status of development of the properties within the reassessment district; and other factors. In addition execution of a continuing disclosure agreement between the Fiscal Agent and any major property owners,. In a form satisfactory to Bond and Disclosure Counsel, will be requires to issue the refunding bonds.

FISCAL IMPACT:

There would be no fiscal impact to the City's General Fund as a result of this action. All costs related to the creation of Reassessment District 2003-1 and the issuance of the refunding bonds would be reimbursed from bond proceeds. Certain costs have been interim funded by the City's Special Assessment District Delinquency Fund, and would be subsequently reimbursed if the refunding bonds are sold. If the Reassessment District is established and the refunding bonds are issued, annual debt service, as well as costs of administering the reassessment district, would be covered by assessments collected from property owners within the district.

Frazier/Vattimo/CW

FILE LOCATION: STRT-D-2308 (31)

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: National Endowment for the Arts (NEA) Folk and Traditional Arts Infrastructure Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-71) ADOPTED AS RESOLUTION R-298216

Authorizing the City Manager to apply for and accept the NEA Folk and Traditional Arts Infrastructure Initiative Grant funding in the amount of \$27,000 for the San Diego Folk and Traditional Arts Project (Project) in Fiscal Year 2004 and to implement related activities;

Authorizing the City Manager to expend the NEA grant and its matching funds in a total amount not to exceed \$54,000, solely and exclusively for the Project and related activities, contingent upon the City Auditor and Comptroller first issuing one or more certificates certifying that funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to enter into an Agreement with Jana Fortier for professional consulting services related to the Commission for Arts and Culture's Folk and Traditional Arts Initiative in an amount not to exceed \$50,000;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to amendments and payment requests, and administer the grant funds as necessary for completion of the Project.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego Commission for Arts and Culture (Commission) has received a grant for \$27,000 from the National Endowment for the Arts (NEA) Local Cultures Infrastructure Pilot Initiative to support the San Diego Folk and Traditional Arts Project (Project). The Project's goal is to strengthen and expand support for folk and traditional arts throughout the San Diego region. Folk and traditional artists are one of the most underserved segments of San Diego's arts and culture community.

In establishing the Project, the Commission seeks ways to identify and remove barrier that prevent those in the folk and traditional arts community from participating and fully benefitting from the opportunities that are available.

To achieve the Project's goal, funding from the NEA will be used to contract a folklorist to work with the Commission on the following Project objectives:

- Identify the number, range and needs of folk and traditional artists practicing throughout the region;
- Develop a program to address funding and technical assistance needs and professional opportunities; and
- Assess and locate the resources (financial and human) necessary to activate the program plan outlined in objective two.

A goal of the NEA's Local Cultures Infrastructure Pilot Initiative is to honor, assist, encourage, and present those artists and forms of artistic expression and practice that reflect the many cultural traditions that make up our nation by strengthening the state and regional infrastructure of support for the folk and traditional arts. The Commission's proposal addressed both of the following NEA priorities:

- Showing the greatest impact in expanding or strengthening a state or region's infrastructure of support for the folk and traditional arts; and
- The potential for long term artistic impact.

The NEA contract is effective through December 31, 2003.

FISCAL IMPACT:

A one to one cash match is required. Matching funds in the amount of \$27,000 will be taken from the Commission's Grant Match Fund. Continued programming beyond the grant funded period is contingent on the availability of funds.

Herring/Hamilton/VJS

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-104: Exclusive Sale - Casa Colina Del Sol, 5207 52nd Place.

(See San Diego Housing Commission Report HCR-03-025. City Heights Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-43) ADOPTED AS RESOLUTION R-298217

Authorizing the City Manager to conduct an exclusive sale of and convey the Property, known as Casa Colina Del Sol, to the San Diego Housing Commission for a payment of \$700,000, including an assignment of the existing lease to the Housing Commission, and upon such other terms and conditions as are set forth in the Offer to Purchase Real Property dated April 14, 2003.

CITY MANAGER SUPPORTING INFORMATION:

The City owns a 1.81 acre parcel at 5207 52nd Place in City Heights ("Property"). The Property is improved with a 75-unit, low-income housing complex commonly known as Casa Colina Del Sol. An existing 55-year ground lease on the Property with Gentry & Coles, a California general

partnership, expires on December 21, 2031. Under the terms of the lease, the lessee is required to pay rent of 2.25% of gross rents over a \$375 monthly minimum rent. This is substantially below market rent. However, the lease does not have a rent escalation clause and restricts occupancy to low-income persons during the entire term. In FY 2002, the City received rent totaling \$12,295. Revenue for the remainder of the 28-year term is estimated to be less than \$400,000.

On January 4, 2003, an independent appraiser provided an opinion of value of \$700,000 for the Property encumbered by the existing leasehold interest. Thereafter, the San Diego Housing Commission offered to purchase the Property for \$700,000, and staff was directed to take the steps necessary to complete the sale of the Property.

On April 8, 2003, Council adopted Resolution R-2003-1145 approving the issuance of bonds for the purchase of the Property by the Housing Commission in an aggregate principal amount not to exceed \$3,500,000 (see Housing Commission staff report). At that time, the Housing Commission took the initial steps for the issuance of the bonds and the approval of a loan to Housing Development Partners, the purchasing entity, in the amount of \$1,600,000. On April 14, 2003, an Offer to Purchase Real Property was executed between the parties that established the terms of the sale, which includes the assignment of the current lease to the Housing Commission. To satisfy the terms of the bond issuance, the escrow for the Property must close by August 31, 2003.

FISCAL IMPACT:

\$700,000 will be deposited into the General Capital Outlay Fund 203453.

Herring/Griffith/CWG

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: Six actions related to Landscaping Easement Vacations in Torrey Hills Unit Nos. 11, 6, 2, 15, 4, and 14.

(Torrey Hills Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-88) RETURNED TO THE CITY MANAGER

Vacating the City's interest in the landscaping easements in Lot "A" and Lot "D" of Torrey Hills Unit No. 11, Map 13829 as shown on Drawing No. 19958-B.

Subitem-B: (R-2004-89) RETURNED TO THE CITY MANAGER

Vacating the City's interest in the landscaping easement in Lot "C" of Torrey Hills Unit No. 6, Map 13767 as shown on Drawing No. 19959-B.

Subitem-C: (R-2004-90) RETURNED TO THE CITY MANAGER

Vacating the City's interest in the landscaping easements in Lots "B," "C," and "D" of Torrey Hills Unit No. 2, Map 13533 as shown on Drawing No. 19960-B.

Subitem-D: (R-2004-91) RETURNED TO THE CITY MANAGER

Vacating the City's interest in landscaping easement in Lot "A" of Torrey Hills Unit No. 15, Map 13792 as shown on Drawing No. 19961-B.

Subitem-E: (R-2004-92) RETURNED TO THE CITY MANAGER

Vacating the City's interest in landscaping easement in Lot "B" of Torrey Hills Unit No. 4, Map 13545 as shown on Drawing No. 19962-B.

Subitem-F: (R-2004-93) RETURNED TO THE CITY MANAGER

Vacating the City's interest in landscaping easements in Lot "A" and Lot "C" of Torrey Hills Unit No. 14, Map 13587 as shown on Drawing No. 19963-B.

CITY MANAGER SUPPORTING INFORMATION:

Council is requested to approve the vacations of landscaping easements within Lots “A” and “D” of Torrey Hills Unit No. 11, Map No. 13829, Lot “C” of Torrey Hills Unit No. 6 Map No. 13767, Lots “B,” “C” and “D” of Torrey Hills Unit No. 2 Map No. 13533, Lot “A” of Torrey Hills Unit No. 15 Map No. 13792, Lot “B” of Torrey Hills Unit No. 4 Map No. 13545, and Lots “A” and “C” of Torrey Hills Unit No. 14 Map No. 13587 as shown on engineering Drawing Nos. 19958-B, 19959-B, 19960-B, 19961-B, 19962-B and 19963-B respectively. These sites are located southeasterly of Carmel Mountain Road and West Ocean Air Drive in the Torrey Hills Community Plan Area in Council District 1.

These easements are being vacated because private property owners encroached into and landscaped the areas prior to installation of landscaping to be maintained by the Landscape Maintenance District (LMD). Since the landscaping is private, the LMD does not want to maintain these areas. The easements being vacated were granted on their respective maps at no cost to the City, and the City has no monetary interest in the easements. There is no present or anticipated future use for the easements in their present locations.

Staff recommends approval of the vacations.

FISCAL IMPACT:

None. Applicant has paid all costs connected with this action.

Ewell/Broughton/GRB

FILE LOCATION: SUBITEMS A, B, C, D, E, & F: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO RETURN THIS ITEM AT THE REQUEST OF THE CITY MANAGER TO ALLOW HOME OWNERS THE TIME TO REVIEW THE EASEMENT VACATIONS. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Appointments to the San Diego Ethics Commission.

(See memorandum from Mayor Murphy dated 6/27/2003 with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-60) ADOPTED AS RESOLUTION R-298218

Council confirmation of the following appointments by the Mayor to serve as members of the San Diego Ethics Commission, for terms ending as indicated:

<u>Nominee</u>	<u>Category</u>	<u>Term Ending</u>
Karen L. Thomas (Replacing Lisa Foster, whose term ended)	Democrat (Attorney)	6/30/2007
Charles H. Dick, Jr. (Replacing Albert J. Gaynor, whose term ended)	Republican (Attorney)	6/30/2007

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT THE RESOLUTION TO CONFIRM THE APPOINTMENTS. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Refunding of the 2002 Lease Revenue Bonds (Ballpark Project).

(See City Manager Report CMR-03-148. Centre City East Community Area.
District-2.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-09 Cor. Copy) INTRODUCED, TO BE ADOPTED ON
MONDAY, AUGUST 4, 2003

Introduction of an Ordinance pursuant to Section 99 of the Charter of the City of San Diego approving the form of and authorizing the execution and delivery of a site lease and an amended and restated Ballpark Facility Lease, and approving and authorizing the execution, delivery and performance of an assignment agreement and an indenture by the Public Facilities Financing Authority (Authority) of the City of San Diego and approving and authorizing the issuance and sale of the Authority's Refunding Lease Revenue Bonds, Series 2003 (Ballpark Project) and approving certain other documents and actions in connection therewith.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:56 p.m. - 3:22 p.m.)

MOTION BY MADAFFER TO INTRODUCE. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-201: Four actions related to Fiscal Year 2004 Appropriation Ordinance and Related Actions.

CITY MANAGER'S RECOMMENDATION:

Hold the first public hearing of the ordinance in Subitem A; introduce the ordinances in Subitems B and C; and adopt the resolution in Subitem D:

Subitem-A: (O-2004-08) HEARING HELD; TO BE INTRODUCED AND
ADOPTED ON TUESDAY, JULY 22, 2003

An Ordinance adopting the Annual Budget for the Fiscal Year 2003-04 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year.

NOTE: Today's action is the first public hearing. See Item 334 on the docket of Tuesday, July 22, 2003 for the second public hearing and introduction and adoption of the Ordinance.

Subitem-B: (O-2004-06) INTRODUCED, TO BE ADOPTED ON MONDAY,
AUGUST 4, 2003

Introduction of an Ordinance amending Chapter 2, Article 2, Division 4, of the San Diego Municipal Code by amending Sections 22.4006 and 22.4022, relating to Special Events.

Subitem-C: (O-2004-07) INTRODUCED, TO BE ADOPTED ON MONDAY,
AUGUST 4, 2003

Introduction of an Ordinance amending Chapter 6, Article 3, Division 1, of the San Diego Municipal Code by amending Section 63.0102, relating to Use of Park Areas.

Subitem-D: (R-2004-86) ADOPTED AS RESOLUTION R-298241

Directing the City Clerk to revise the Ratebook of City Fees and Charges to add fees charged for special events applications, private events on public property, and Fire Department operational support fees.

FILE LOCATION: SUBITEMS A, B, & C: NONE
SUBITEM D: MEET

COUNCIL ACTION: (Time duration: 2:46 p.m. - 2:47 p.m.)

MOTION BY MADAFFER TO APPROVE THE HEARING IN SUBITEM A, TO INTRODUCE THE ORDINANCES IN SUBITEMS B AND C, AND TO ADOPT THE RESOLUTION IN SUBITEM D. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea (nay on the catering fees portion), Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**ITEM-202: REFERRED TO CLOSED SESSION AFTER THE REGULAR MEETING,
AND ON TUESDAY, JULY 22, 2003**

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Qualcomm Stadium

Agency Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert J. Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to Council discussion in Special Closed Session scheduled for July 21, 2003 and regular Closed Session scheduled for July 22, 2003, in compliance with the Brown Act, (California Government Code Section 54956.8) this item is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

Mayor Murphy closed the Hearing.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:45 p.m. - 2:46 p.m.)

ITEM-203: REFERRED TO CLOSED SESSION ON TUESDAY, JULY 22, 2003

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Parcels 1, 2, 3, 4 and 5 of Parcel Map 18855.

City Negotiators: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, and Peter Hall, President, CCDC.

Negotiating Parties: City of San Diego, the San Diego Padres and JMI Realty, Inc.

Under Negotiation: Price and terms pursuant to the Memorandum of Understanding for the Ballpark and Redevelopment Project and its subsidiary agreements.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this item is listed on the docket **only** for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

Mayor Murphy closed the Hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:45 p.m. - 2:45 p.m.)

ITEM-250: Settlement of the Attorney's Fees and Costs Claim of Phillip Paulson.

(R-2004-61)

Adopted as Resolution R-298162.

A Resolution approved by the City Council in Closed Session on Tuesday, July 1, 2003, by the following vote: Peters-yea; Zucchet-yea; Atkins-yea; Lewis-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-yea.

Authorizing the City Manager to pay the sum of \$18,638.72 in the settlement of each and every claim against the City, its agents and employees, for costs and attorneys' fees resulting from the pleadings offered by Phillip Paulson in opposition to the petition for certiorari made by the City of San Diego to the United States Supreme Court (Ninth Circuit Court of Appeals Case No. 00-55406 *Phillip Paulson v. City of San Diego*, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the sum of \$18,638.72 made payable to Phillip Paulson and his attorneys, Law Offices of James E. McElroy and ACLU Foundation of San Diego and Imperial Counties, in full settlement of the attorneys' fees and costs incurred in the United States Supreme Court;

Declaring that said funds are to be payable from Fund No. 81140.

Aud. Cert. 2400025.

NOTE: This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.

ITEM-251: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to record a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivision:

SUBDIVISION
Crawford Street

COMMUNITY AREA
Navajo Community

The "Notice of Completion and Acceptance of Subdivision Improvement Agreement" shall be recorded with the County Recorder 15 days after this notice appears in the Council Docket or shortly thereafter. If any person wishes to object to the recording of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, 1222 First Avenue (M/S 507), San Diego CA 92101.

ITEM-S400: Lisa Dodd Day.

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-103) ADOPTED AS RESOLUTION R-298219

Commending Ms. Dodd for her amazing softball career and selection as Gatorade's California and National Player of the Year;

Proclaiming July 21, 2003 to be "Lisa Dodd Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:28 p.m. - 2:37 p.m.)

MOTION BY PETERS TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S401: Lesbian, Gay, Bisexual and Transgender Pride Week.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-82) ADOPTED AS RESOLUTION R-298211

Recognizing the many civic contributions of the lesbian, gay, and transgender community in San Diego, and encouraging all people to share in the pride of our City's diverse citizenry;

Proclaiming July 21 to 27, 2003 to be "Lesbian, Gay, Bisexual, Transgender Pride Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:16 p.m. - 2:28 p.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S402: The National Conference for Community and Justice Anytown Program Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-128) ADOPTED AS RESOLUTION R-298212

Commending The National Conference for Community and Justice Anytown Program for its mission to fight bias, bigotry, and racism;

Proclaiming July 21, 2003 to be “The National Conference for Community and Justice Anytown Program Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S403: Amendment to Agreement with Procopio Cory Hargreaves & Savitch regarding the Renegotiation Provisions of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium between the City and the San Diego Chargers.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-66) ADOPTED AS RESOLUTION R-298220

Authorizing and directing the City Attorney to execute an amendment to the Retention Agreement with the firm of Procopio Cory Hargreaves & Savitch LLP, for an additional amount not to exceed \$300,000 for a total contract amount not to exceed \$500,000.

SUPPORTING INFORMATION:

This action will amend the existing agreement between the City of San Diego and Procopio Cory Hargreaves & Savitch for legal services related to the renegotiation provisions of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium between the City and the San Diego Chargers (Agreement). An initial contract amount, not to exceed \$100,000, was authorized by the City Manager in early March, and an additional amount, not to exceed another \$100,000, was authorized by the City Council in Resolution No. R-297734. The total amount authorized to date has proved insufficient due to the level of required services from the firm. An additional amount not to exceed \$300,000 is now necessary and appropriate to continue providing the necessary legal services relating to the Agreement. The proposed amendment will bring the total contract to an amount not to exceed \$500,000.

Herring/Girard

Aud. Cert. 2301231.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

*ITEM-S404: Agreement with Orrick, Herrington & Sutcliffe, LLP and Webster and Anderson for Bond and Disclosure Counsel Services for Wastewater Financing.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-113)

ADOPTED AS RESOLUTION R-298221

Authorizing the City Manager to execute an agreement with Orrick, Herrington and Sutcliffe, and Webster and Anderson, in an amount not to exceed \$248,500 for Bond Counsel and Disclosure Counsel Services, contingent upon the issuance of bond financing and an amount not to exceed \$5,000 for other financing related services;

Authorizing the expenditure of an amount not to exceed \$5,000 from Fund No. 41509, Department No. 777, Organization No. 445, Object Account No. 4151, Job Order No. 5053, for the purpose of providing funds for the above project.

SUPPORTING INFORMATION:

The City has proposed to finance the construction, installation, and improvement of the City's wastewater system with revenue bonds and refunding of outstanding series of bonds (Bonds) to be issued by the Public Facilities Financing Authority of the City of San Diego. The City previously issued a request for proposals for bond counsel and disclosure counsel services for the 1998 issuance of Sewer Revenue Bonds. Approximately 40 firms received the request for proposals. Through an interview selection process, Orrick, Herrington & Sutcliffe, LLP (Orrick)

and Webster and Anderson (Webster) (collectively Orrick and Webster are referred to as the Firm) were selected to provide bond counsel and disclosure counsel services for the financing of the improvements to the wastewater system. The City reserved the right to engage the Firm for one additional financing. The City has determined to exercise its option and use the Firm for the next series of Bonds. The terms of the agreement are as follows: For bond counsel services, Orrick shall be compensated an amount not to exceed \$72,000, plus an amount not to exceed \$5,000 for related expenses and Webster shall be compensated an amount not to exceed \$18,000, plus an amount not to exceed \$5,000 for related expenses. For additional expenses related to complications, if any, that cause delays in the financing and additional legal work and expenses, Orrick shall be compensated an amount not to exceed \$15,000 and Webster shall be compensated an amount not to exceed \$5,000. For disclosure counsel services, Orrick shall be compensated an amount not to exceed \$65,000, plus an amount not to exceed \$5,000 for related expenses. Similarly, if additional disclosure counsel services are needed due to delays in the financing Orrick shall be compensated on an hourly basis at Orrick's then current billing rate, in an amount not to Exceed \$15,000, including related expenses. For tax analysis services, Orrick shall be compensated in an amount not to exceed \$16,000, including related expenses. If used for post closing related investments, Orrick shall be compensated an amount not to exceed \$25,000, plus an amount not to exceed \$2,500 for related expenses. The foregoing fees and related expenses are contingent on the bond being sold. For legal services related to other financing issues, Orrick shall be compensated an amount not to exceed \$5,000.

FISCAL IMPACT:

Bond and disclosure counsel fees are contingent on the Bonds being sold and shall be paid from the proceeds of the Bonds. For legal services related to other financing issues, Orrick shall be paid \$5,000 from Fund 41509, Dept. 777, Org. 445, Object Account 4151, and Job Order 5053.

Frazier/Noone/KS

Aud. Cert. 2400060.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. - 2:45 p.m.)

CONSENT MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

NONE.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 3:25 p.m. in honor of the memory of:

Brian James Keeling as requested by Council Member Atkins.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 3:23 p.m. - 3:25 p.m.)